THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on :03.07.2007

WP(C) No.2160/2002

M/S MOHANWI CORPORATION PVT LTD. ...Petitioner

- versus -

LIFE INSURANCE CORPORATION OF INDIA & ANR. ...Respondents

Advocates who appeared in this case:

For the Petitioner : Mr A. N. Pareekh, Sr. Advocate with Mr Rajiv Sahai and Mr Pramod Kumar Sharma

For the Respondent : Mr Mahender Singh

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment ? Yes

2. To be referred to the Reporter or not ? Yes

3. Whether the judgment should be reported in Digest ? Yes

BADAR DURREZ AHMED, J

1. This petition has been filed challenging the common judgment and/ or order passed by the learned Additional District Judge, dismissing two appeals under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the said Act) being PPA No. 460/2000 and PPA No. 461/2000. The said appeals were preferred by the petitioner herein against two separate orders, both dated 23.05.2000, passed by the Estate Officer in case No. 9/1980 and case No. 1/1995. By the order passed

in case No. 9/1980, the Estate Officer assessed damages for the period 01.06.1977 to 31.03.2000, which was payable by the petitioner to the respondent No.1 (LIC), to be a sum of Rs.58,15,063.66p. By the same order, the Estate Officer also assessed future damages at the rate of Rs.24,750/- per month w.e.f. 01.04.2000 till the property in question was vacated. In case No. 1/1995, the Estate Officer passed an eviction order against the petitioner.

2. The main ground urged on behalf of the petitioner was that the eviction order and consequently the order for damages were liable to be set aside because they were based on a notice of termination issued on 04.06.1968 which stood exhausted as well as waived inasmuch as the proceedings for eviction under the said Act were only started by virtue of a notice under Section 4(1) of the said Act issued on 03.02.1995. It was also contended that as LIC had continued to receive rent even after the issuance of the notice of termination dated 04.06.1968, the termination itself stood waived and, therefore, the petitioner was not in unauthorized occupation as defined in Section 2(g) of the said Act. The second point urged on behalf of the petitioner was that the action initiated under the said Act was well beyond the period of 12 years from the date of termination which was in 1968. Article 67 of the Schedule to the Limitation Act was also pressed into service for indicating that the limitation prescribed was 12 years for a landlord to recover possession from

a tenant. Ancillary issues were also raised on behalf of the petitioner and the same shall be discussed subsequently.

3. This case has had a chequered history and as such it would be necessary to trace its origins. It is an admitted position that the petitioner was inducted as a tenant w.e.f 01.11.1960 in respect of an area of 1650 sq. ft. in the ground floor of Jeevan Tara Building, Parliament Street, New Delhi, which belongs to LIC. The rate of rent at that point of time was Rs.2,145/- per month. The petitioner had fallen into arrears of rent and despite reminders, the same had not been cleared up. On 04.06.1968, LIC served the petitioner with an eviction notice on account of the petitioner being in arrears of rent. The said notice was also to be treated as under Section 434 of the Companies Act, 1956 for winding up of the petitioner company on its inability to pay its debts. However, no action was taken pursuant to the provisions of the Companies Act, 1956.

4. Despite service of the notice which terminated the tenancy on 30.06.1968, the petitioner neither paid the arrears nor vacated the premises. Consequently, LIC filed a petition under Section 14 (1)(a) of the Delhi Rent Control Act, 1958 (numbered as Suit No. 264/1970) for eviction of the petitioner. This was filed on 29.04.1970. It must be pointed out that the said Act had not been enacted at that time and, therefore, recourse to the said Act

was not available to LIC on that date, i.e., in 1970. The Additional Rent Controller passed an eviction order on 15.01.1972 after holding that the petitioner was in arrears of rent w.e.f. 01.01.1961 and that a valid notice of demand and termination of tenancy had been served upon the petitioner. The Additional Rent Controller also noted that even the order under Section 15(1) of the Delhi Rent Control Act, 1958 directing the petitioner to deposit arrears had not been complied with and consequently the defence of the petitioner had also been struck off. It is in these circumstances that the eviction order under Section 14(1)(a) of the Delhi Rent Control Act, 1958 was passed by the Additional Rent Controller on 15.01.1972.

5. Being aggrieved by the eviction order, the petitioner filed an appeal before the Rent Control Tribunal. The said appeal was dismissed by the Tribunal on 14.01.1973. Since the petitioner was not vacating the premises despite the eviction order having become final, an execution application was filed by LIC before the Additional Rent Controller. The petitioner filed its objections to the execution application. The petitioner contended that the execution application was not maintainable as the order of eviction was a nullity because the court had no jurisdiction in the matter after the passing of the said Act. The learned Additional Rent Controller accepted this objection of the petitioner. He was of the view that the said Act was enacted in 1971 but it had been given retrospective effect by virtue of Section 1(3) thereof w.e.f 16.09.1958 (except Sections 11, 19 and 20). Section 15 of the said Act

constituted a bar against any court having jurisdiction, to entertain any suit or proceeding in respect of, *inter alia*, eviction of any person who was in unauthorized occupation of any public premises and or arrears of rent or damages payable under Section 7. In the context of the provisions of Section 15 of the said Act, the Additional Rent Controller held that after the enactment of the said Act in 1971, no court could pass an eviction order in respect of eviction of an unauthorized occupant of any public premises. Accordingly, he held that the decree of eviction was a nullity and the same could not be executed by the court. It is pertinent to note that while holding so, the Additional Rent Controller in his order dated 27.03.1978 also held that there was no dispute that the suit premises were public premises as contemplated under the said Act. He also held that it was beyond dispute that the petitioner became an unauthorized occupant of the suit premises when the petitioner continued in possession after the termination of his tenancy. These two findings are material inasmuch as they have not been challenged by the petitioner in appeal.

6. Being aggrieved by the dismissal of the execution application and the allowance of the objections of the petitioner as well as the finding that the eviction order of 15.01.1972 was a nullity and that the same could not be executed, LIC preferred an appeal (RCA 431/1978) before the Rent Control Tribunal. The said appeal was dismissed by an order dated 08.05.1979. The

Rent Control Tribunal while dismissing the appeal, confirmed that the executing court had no jurisdiction to proceed with the execution of the eviction order as the same was beyond jurisdiction after the enactment of the said Act. The Rent Control Tribunal also observed that for the purposes of obtaining possession of the premises from the petitioner, LIC would have to now approach the Estate Officer under the said Act and courts would have no jurisdiction in this matter. Being aggrieved by the dismissal of its appeal (RCA 431/1978), LIC filed a second appeal (SAO No. 305/1979) in this High Court against the order dated 08.05.1979 passed by the Rent Control Tribunal. The said second appeal was pending before this Court when, on 20.09.1993 LIC sought leave of this Court to withdraw the same on the ground that LIC had initiated proceedings under the said Act. By an order dated 20.09.1993 this Court granted leave to LIC to withdraw the second appeal (SAO 305/1979).

7. Subsequently, on 03.02.1995, the notice under Section 4(1) of the said Act was issued to the petitioner. The notice recorded the entire history of the case and alleged that the petitioner had been in unauthorized occupation since 30.06.1968, the date on which the tenancy terminated, and that the petitioner had not vacated the premises despite being in unauthorized occupation. The proceedings before the Estate Officer were, therefore, initiated for eviction of the petitioner under the said Act. The same was numbered as case No. 1/1995.

8. During the pendency of the proceedings before the Estate Officer in case No. 1/1995, on 18.09.1995, the Estate Officer passed an order consolidating the said case No. 1/1995 and case No. 9/1980. The latter case was one of proceedings in respect of damages for the petitioner being in unauthorized occupation of the premises in question.

9. The proceedings with regard to damages from time to time have also seen various petitions. Case No.6/1975 was a proceeding in respect of recovery of damages under Section 7 of the said Act on the basis of the notice of termination dated 04.06.1968. By an order dated 10.10.1979, the Estate Officer held the petitioner to be in unauthorized occupation and passed an order of damages w.e.f February, 1971. Being aggrieved the petitioner preferred an appeal before the learned Additional District Judge under Section 9 of the said Act. The learned Additional District Judge, while holding that the petitioner was in unauthorized occupation of the premises in question, took note of the decision of the Supreme Court in the case of ***NDMC v. Kalu Ram: AIR 1976 SC 1637*** and held that only legally recoverable arrears / damages could be recovered and not those which had become time barred. He, therefore, held that arrears of damages could only be recovered w.e.f 01.03.1972 onwards, that is, three years prior to the filing of the petition seeking damages. Holding so, the appeal filed by the petitioner was dismissed by an order dated 04.11.1985.

This order was accepted by the petitioner and even the damages assessed by this order were paid by the petitioner.

10. The said order dated 04.11.1985 with respect to damages was for a period up to May, 1977. With respect to the period commencing on 01.06.1977, another petition under Section 7 of the said Act was filed by the LIC. That petition was numbered as case No. 9/1980. It was that case which was consolidated with the eviction case No. 1/1995 by virtue of the order dated 18.09.1995 referred to above. In the said order of 18.09.1995 the Estate Officer observed that the petitioner had failed to deliver possession despite service of notice dated 04.06.1968. It was also noted that the matter with regard to eviction remained subjudice all these years till the withdrawal of the second appeal (SAO 305/1979) on 20.09.1993. The Section 7 proceedings which emanated from the same notice were also pending and, therefore, the Estate Officer thought it fit to consolidate both the cases — case No. 9/1980 with regard to damages and case No. 1/1995 with regard to eviction. Being aggrieved by the order of consolidation, the petitioner filed an appeal (PPA 694/1995) under Section 9 of the said Act before the learned Additional District Judge who, by an order dated 18.04.1998, dismissed the same. The learned Additional District Judge while dismissing the said appeal held that:-

> "I agree with the view taken by the EO in the impugned order that the eviction proceedings are not barred by limitation."

He concluded that the consolidation was proper and accordingly dismissed the appeal.

11. Still being aggrieved, the petitioner filed a writ petition (CW No. 3192/1998) before this Court against the said order dated 18.04.1998. That writ petition was dismissed by a learned Single Judge of this Court on 13.08.1999, holding that there was no infirmity in the order passed by the Estate Officer as well as by the appellate authority which required interference of the Court under Article 226 of the Constitution of India. The learned Judge, however, observed that the petitioners shall at a later stage be entitled to challenge the final order when it is passed by the authorities irrespective of other reliefs claimed in the petition.

12. Thereafter, the proceedings in case No. 1/1995 and case No. 9/1980 were continued before the Estate Officer and it culminated in the passing of two separate orders on 23.05.2000. In case No. 1/1995, the Estate Officer passed the eviction order directing the eviction of the petitioner from the premises in question. In case No. 9/1980, the Estate Officer passed an order requiring the petitioner to pay damages for unauthorized occupation for the period 01.06.1977 to 31.03.2000 amounting to Rs.58,15,063.66 p. He also awarded future damages to be at the rate of Rs.24,750/- per month w.e.f 01.02.2000 till the premises were vacated.

13. The petitioner being aggrieved both by the eviction order as well as the order on damages filed two separate appeals being PPA No. 460/2000 and PPA No.461/2000 against the two orders both dated 23.05.2000. These appeals were dismissed by the learned Additional District Judge by the common judgment and / or order dated 14.02.2002, which is impugned herein.

14. As noted above, the points argued before the learned Additional District Judge as also before this Court were that the notice under Section 4(1) of the said Act which was issued on 03.02.1995 was a nullity as it was based on an earlier notice issued in June 1968, the proceedings in consequence whereof were declared to be a nullity. The second point urged was that the notice of 1968 had lapsed and or expired and that, in any event, since no proceedings were taken subsequent thereto, the same had been waived by LIC. It was also urged that the proceedings initiated upon the notice of 03.02.1995 were barred by limitation inasmuch as a period far in excess of 12 years had elapsed between the issuance of the notice of termination dated 04.06.1968 and the issuance of the notice under Section 4(1) of the said Act on 03.02.1995.

15. On the other hand, it was contended on behalf of LIC that the notice dated 04.06.1968 had been served on the petitioner determining the tenancy and thereafter, the petitioner became an unauthorized occupant. From

1968 till 23.05.2000 when the Estate Officer passed the orders of eviction and also for damages and till today proceedings had been continuing against the petitioner on the basis of the initial notice dated 04.06.1968. It was also contended that the petitioner accepted the order dated 04.11.1985 where it was finally held that the petitioner was in unauthorized occupation. It was submitted that the notice dated 04.06.1968 had never been "exhausted" nor waived and a tenancy once determined is determined for ever unless a fresh tenancy is created either expressly or impliedly. According to the counsel for LIC no such fresh tenancy was ever created inasmuch as since the termination of the tenancy in 1968, LIC has been prosecuting its case for eviction as well as for damages.

16. It was also contended on behalf of LIC that the notice of termination would not be time barred because the Limitation Act has application to proceedings in courts and the Estate Officer is not a court. It was further submitted that by virtue of Section 2(g) of the said Act, after the tenancy of the petitioner was terminated, the petitioner became an unauthorized occupant w.e.f 01.07.1968 and that it was never thereafter treated as a tenant. The amounts that were received by the petitioner were not regarded as rent but were kept in a suspense account and that, in any event, LIC had been pursuing the recovery of damages under the said Act from time to time. The damages so awarded by virtue of the appellate order dated 04.11.1985, had also been

accepted by the petitioner and paid by it. Therefore, according to the learned counsel for LIC, there was no question of the petitioner not being regarded as an unauthorized occupant.

17. There was some controversy as to whether the Additional Rent Controller in his order dated 27.03.1978, while dismissing the execution application, had recorded that the eviction order of 15.01.1972 passed by the Additional Rent Controller, was a nullity or not. Much capital was sought to be made by the learned counsel for the petitioner out of the observation in the impugned judgment of 14.02.2002 that it was held by the Additional District Judge by his order dated 04.11.1985 that the eviction order had not been declared to be a nullity. The learned counsel for the petitioner submitted that the fact of the matter is that the Additional Rent Controller in his order dated 27.03.1978 did hold that the eviction order of 15.01.1972 was a nullity. In my view this controversy is of no consequence. The position in law is very clear that after the passing of the said Act, no court could pass an eviction order in respect of an unauthorized occupant of a public premises. The present premises are admittedly public premises. The factum that the petitioner was in unauthorized occupation has also been settled by various orders indicated above, which have become final. That being the position, the eviction order passed on 15.01.1972 by the Additional Rent Controller could not have been passed as the same was without jurisdiction. An order without jurisdiction is a

nullity. The issue whether one Additional District Judge felt as to whether the Additional Rent Controller had or had not held the order to be a nullity is now of no consequence. The position in law and in fact is that the eviction order dated 15.01.1972 was held to be a nullity by the Additional Rent Controller in his order dated 27.03.1978. Consequently, the same was not executable. But this does not help the petitioner in any way other than having given the petitioner a long lease of life of retaining possession of the property in question in respect of which the tenancy had already been terminated in 1968.

18. The contention of the petitioner that the notice under Section 4(1) of the said Act issued on 03.02.1995 was a nullity as it was based on an earlier notice of June, 1968 and the proceedings in consequence thereof had been declared to be a nullity, cannot be accepted. It is not as if the entire proceedings emanating from the notice of 04.06.1968 was declared to be a nullity. What was a nullity was the eviction order of 15.01.1972 because, by the time eviction order came to be passed, the said Act had been enacted and along with it came the bar of jurisdiction of the Court under Section 15 thereof. The only difference that was made was that the court could not pass an eviction order and if LIC sought eviction of the petitioner, it had to be under the said Act and not under the Delhi Rent Control Act, 1958. What was declared a nullity was an eviction order under Section 14(1)(a) of the Delhi Rent Control Act, 1958 and not proceedings under the said Act.

19. I am also not in agreement with the submission that the notice of 1968 had lapsed or expired. It must be remembered that pursuant to the said notice of 04.06.1968, LIC had filed the petition under the Delhi Rent Control Act, 1958. An eviction order had been passed in those proceedings on 15.01.1972. Even an appeal preferred by the petitioner was dismissed by the Rent Control Tribunal on 14.01.1973. It is only at the stage of execution that objections had been taken by the petitioner that after the passing of the said Act, the Additional Rent Controller had no jurisdiction to pass an eviction order. This objection was sustained and the execution application was dismissed. However, LIC was aggrieved by the dismissal of the execution application and an appeal was filed before the Rent Control Tribunal which was also dismissed and the Rent Control Tribunal, it may be remembered, observed that LIC had to approach the Estate Officer under the said Act for getting possession of the premises from the petitioner. However, LIC took the matter further by way of a second appeal before this Court, which only terminated by the withdrawal of the same on 20.09.1993 on the ground that LIC had initiated proceedings under the said Act. It is only consequent to these events that, on 03.02.1995, the notice under Section 4(1) of the said Act was issued. The entire period from 1970 to 1993 was embroiled in controversy with regard to the applicability of the Delhi Rent Control Act or the said Act. This had occurred because during the pendency of the petition for eviction under the

Delhi Rent Control Act, 1958, the said Act had been enacted in 1971 and, that too, with retrospective effect from 16.09.1958. The LIC cannot be penalized for the bona fide pursuit of its remedies all these years and the entire period from 1970 to 20.09.1993 would have to be disregarded in construing the notice dated 03.02.1995 issued under Section 4 (1) of the said Act. If that is done, there is no question of concluding that the notice of 1968 has lapsed or expired.

20. This discussion also takes care of the argument of limitation taken up by the counsel for the petitioner.

21. For the sake of completeness, I shall now discuss the cases that were referred to and relied upon by the learned counsel for the petitioner. The learned counsel for the petitioner relied upon a decision of a learned Single Judge of the Calcutta High Court in the case of ***Hamida Ali and Others v. Calcutta Telephones: 1995 AIHC 2465***. That was a case in which a notice to quit had been issued in 1976 but the notice under Section 4(1) of the said Act had been issued only 11-1/2 years later on 08.07.1987. The Court held that the notice under Section 4(1) was illegal and invalid. On first blush this case appears to support the petitioner. But if one examines the case in some detail, it would be found that, in fact, it is not so . The case is entirely distinguishable. Two distinguishing features are that in the case before the Calcutta High Court rent was being received admittedly even after the notice to quit which was

issued in 1976 right up to 14.09.1987, that is, after the notice under Section 4(1) of the said Act had been issued. Secondly, no action for eviction had been taken pursuant to the 1976 notice for 11-1/2 years. The facts in the present case are entirely different. Firstly, there was no receipt of rent after the notice to quit issued on 04.06.1968. On the contrary, there were proceedings for recovery of damages under Section 7 of the said Act, which have been detailed above and need not be repeated at this stage. Secondly, LIC had taken action for eviction of the petitioner in 1970 itself pursuant to the termination notice of 04.06.1968. Those proceedings continued under the Delhi Rent Control Act, 1958 and an eviction order was passed. Subsequently, the said order was declared to be a nullity in view of the passing of the said Act in 1971. But, proceedings were continued right up to 20.09.1993 till the withdrawal of the second appeal on the ground that proceedings had been initiated under the said Act. There is, therefore, no similarity between the facts of the present case and those obtaining in ***Hamida Ali*** *(supra).* The two cases are entirely distinguishable.

22. The Supreme Court decision in the case of ***NDMC v. Kalu Ram*** *(supra)* was also relied upon by the counsel for the petitioner to show that with regard to recovery of arrears, the Limitation Act would be applicable and only legally recoverable arrears could be ordered. There is no dispute with this proposition and, in fact, as noted above, the learned Additional District Judge in

his order dated 04.11.1985 restricted the claim for damages to only a period of three years prior to the filing of the petition. In the present case also, case No.9/1980 is with respect to arrears w.e.f 01.06.1977 and is clearly within the three-year period. Therefore, this decision does not in any way enable the petitioner to challenge the impugned order dated 14.02.2002.

23. The decision of a Division Bench of the Bombay High Court in the case of ***K. K. Verma v. Union of India: AIR 1954 BOM 358*** was relied upon by the learned counsel for the petitioner for submitting that a tenant of government premises, who continues in possession after the termination of his tenancy by a notice to quit, cannot be said to be in "unauthorized occupation" of the premises. This case is also distinguishable from the facts of the present case. First of all, ***K. K. Verma*** *(supra)* was decided in the context of the definition of "unauthorized occupation" in Section 3(1) (b) of the Government Premises (Eviction) Act, 1950 which is entirely different to the provisions of Section 2(g) of the said Act. In ***K. K. Verma*** *(supra)* the Bombay High Court construed the expression "unauthorized occupation" to have reference to an occupation which was unauthorized to start with and continued to be unauthorized throughout the time that the person was in possession. In their opinion it did not refer to possession which was authorized initially and then became unauthorized subsequently. The said decision can have no application to the facts of the present case inasmuch as Section 2(g) of the said Act itself

includes within the fold of "unauthorized occupation" situations where the continuance in occupation by any person of the public premises has become unauthorized consequent upon the authority (whether by way of grant or any other way of transfer) under which he was allowed to occupy the premises, has expired or has been terminated for any reasons whatsoever. Clearly, the decision in ***K. K. Verma*** *(supra)* could have no application.

24. In support of the proposition that if the eviction order goes then there would be no question of damages, the learned counsel for the petitioner relied upon the decision of a learned Single Judge of the Kerala High Court in the case of ***Madhavan Nair v. Ankan and Others:*** ***AIR 1962 Kerala 55.*** In that case it was held that a decree of mesne profits could only be passed where the possession of the judgment debtor was wrongful. If the statute subsequently holds the possession to be rightful in the sense that the judgment debtor became a statutory tenant, the award of mesne profits was clearly unenforceable for the period the statute superseded the decree. In the present case there is no question of the petitioner becoming a statutory tenant in view of the express provisions of the said Act. The fact is that the petitioner is an unauthorized occupant and he is in possession of public premises. There is no question of the eviction order being set aside and accordingly, the order with regard to damages shall also hold.

25. Similarly, the learned counsel for the petitioner also placed reliance on a decision of the Supreme Court in the case of ***Venkatesh Narahar v. H. K. Mulla: AIR 1966 SC 1085.*** In that case it was held that between the date of termination of tenancy and the date of order for possession, a tenant continues to be a lawful tenant and would not be liable to pay mesne profits but only rent. The said decision is not applicable to the present case because that was under the Bombay Tenancy and Agricultural Lands Act, 1948. The decision is specific to that Act and in particular to Section 29(2) thereof, which reserved the tenancy till an order of possession was passed. This is not the position in the present case.

26. It was then contended by the learned counsel for the petitioner that the occupation of a tenant would be wrongful only from the date of the eviction decree. For this proposition, he relied upon the decision of the Supreme Court in the case of ***Chander Kali v. Jagdish Singh: AIR 1977 SC 2262.*** But that decision is also distinguishable. That was a case of a statutory tenancy under the M. P. Accommodation Control Act, 1961. The notice terminating the tenancy had the effect of terminating the contractual relationship between the landlord and the tenant. But by virtue of the statute, the tenant continued to be regarded as such and it is obvious that the possession and occupation of such a person could only be wrongful from the date of the eviction decree, that is,

from the date on which the statutory protection was removed. This decision has no application to the facts of the present case.

27. Finally, the learned counsel for the petitioner referred to the decision of the Supreme Court in the case of ***Union of India v. GTC Industries Ltd.: 2003 (5) SCC 106*** for the proposition that a quasi-judicial order has to be judged on the basis of the reasons given in it. On the basis of this proposition, the learned counsel for the petitioner submitted that the Estate Officer's dated 23.05.2000 is based on the notice dated 04.06.1968 which is time barred. And as the eviction order would be bad, therefore, the order of damages would also be bad. Firstly, the proposition advanced on the basis of the said Supreme Court decision has no application to the case at hand. Secondly, I have already observed that the action under the said Act, pursuant to the notice dated 04.06.1968, is not time barred. Thirdly, because the eviction order is not bad, there is no question of the order for damages being bad or invalid.

28. The learned counsel for the petitioner also sought to invoke the guidelines issued on 14.01.1992 by the Government of India for the invocation of the said Act by public sector units/ corporations. The guidelines indicate that the provisions of the said Act should be used primarily to evict totally illegal occupants of the premises of public authorities or unauthorized sublettees, or employees who have ceased to be in their service and thus ineligible for

occupation of the premises. It is also indicated in the guidelines that the provisions of the Act should not be resorted to either with a commercial motive or to secure vacant possession of the premises in order to accommodate their own employees. A further guideline is that a person in lawful occupation of any premises should not be treated or declared to be an unauthorized occupant merely on service of notice of termination of tenancy, nor should any contractual agreement be wound up by taking advantage of the provisions of the Act. The first impression is that these guidelines go to help the petitioner. But several factors have to be kept in mind while construing these guidelines. First of all, the guidelines themselves contain the qualification — "the proceedings should be initiated in accordance with the provisions of the Act only in cases where the occupation become unauthorized on genuine grounds of law". In the present case, the petitioner's occupation became unauthorized because of the service of the notice of termination of tenancy which in turn was occasioned by the fact that the petitioner was habitually in arrears of rent which is a genuine ground in law. Secondly, it must be noted that the notice of termination of tenancy must not be for the purposes of invoking the provisions of the said Act. In the present case when the notice of termination of tenancy was issued in 1968, the said Act had not been enacted as yet and such a motive cannot be imputed to LIC. The guidelines cannot at all be invoked by an unauthorized occupant such as the petitioner.

29. For all these reasons, I find that no interference with the impugned judgment and/ or order dated 14.02.2002 passed by the learned Additional District Judge is called for. This writ petition is dismissed. All interim orders stand vacated. The petitioner shall be given due credit for any deposits / payments made pursuant to orders of this Court. No order as to costs.

BADAR DURREZ AHMED
(JUDGE)

July 03, 2007
SR